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UNCLAS SECTION 01 OF 03 ROME 000827

C O R R E C T E D C O P Y (added / corrected PARA classifications)

SENSITIVE
SIPDIS

E.O. 12958: N/A
TAGS: [EFIN](#) [ECON](#) [IT](#)
SUBJECT: ITALY 2008 REPORT ON INVESTMENT DISPUTES AND EXPROPRIATION
CLAIMS (527 REPORT)

REF: STATE 49477

ROME 00000827 001.2 OF 003

¶1. (U) Embassy is aware of four (4) outstanding expropriation cases concerning the estates of United States citizens of Italian descent against the Government of Italy for the expropriation of property. For Claimant A, there is only one up-date from the Embassy's report of last year. There is no up-date on the situation of Claimants B and C. Claimant D is a new case.

CLAIMS

- ¶2. (SBU)
a. Claimant A
b. 1974 - 1980

c. The estate of claimant A, a U.S. citizen who died in September 1997, alleges that real property in and around Rome, held by a number of Italian companies he owned, was expropriated by the City of Rome beginning in January 1974 and continuing through September ¶1980. The court-appointed "Special Administrator" of the estate of Claimant A has continued to pursue this claim and maintains that the City of Rome failed to compensate Claimant A the fair market value of the property in contravention of the 1948 Treaty of Friendship, Commerce and Navigation (FCN) between Italy and the United States. Claimant A initiated legal action in Italian courts in 1983, seeking fair market value compensation for his property. The trial court dismissed this claim. Claimant A appealed unsuccessfully. The case was finally rejected in 1994 by Italy's Supreme Court of Cassation.

The Department of State has taken steps to try to evaluate and promote resolution of this claim. The Department has, inter alia, sought information from the Special Administrator concerning Claimant A's claim, including about the nature of Claimant A's ownership interests in the disputed property and in the companies that apparently held direct ownership of the property, and urged the Government of Italy to negotiate a resolution of this matter directly with the Special Administrator of Claimant A's estate.

The Special Administrator of Claimant A's estate visited Rome in May 2001 and requested the assistance of the U.S. Embassy. Embassy officials put the Special Administrator in contact with the Ministry of Foreign Affairs Legal Department, which had responsibility for Claimant A's case. In 2002, the Ministry of Foreign Affairs (MFA) informed the U.S. Embassy in Rome that the Italian Government viewed this case as closed.

In June 2003, the Special Administrator and a consultant to the Administrator met with the Ambassador at their request. The Special Administrator and the consultant asked the Embassy to send a

diplomatic note to the Ministry of Foreign Affairs requesting a review of the case, which the Embassy did upon Department instructions.

In a December 29, 2003 diplomatic note (received late January 2004), the Ministry of Foreign Affairs argued that the property subject to expropriation belonged to two Italian companies, of which Claimant A was the major stockholder, but not to Claimant A himself. Since the entities in question were Italian and, therefore, subject to Italian law, the MFA argued that the United States could not espouse the claim under the 1948 FCN Treaty. The Ministry of Foreign Affairs also contended that the United States could not espouse the claim of an Italian citizen, arguing that Claimant A, born in Italy, retained his Italian citizenship even after he had acquired American citizenship. The Ministry of Foreign Affairs therefore reaffirmed its conclusion that the case was closed.

In autumn 2003, the Special Administrator and an informal advisor contacted the White House and the Nevada delegation of Congress to inform them about the case. In February 2004, the Embassy informed the Office of the General Counsel, the White House, as well as the Office of the Legal Advisor of the State Department, of the December 29, 2003 Italian diplomatic note. The Office of the Legal Advisor, Department of State, shared with the Special Administrator the December 29, 2003 diplomatic note.

After further review of the December 29, 2003 diplomatic note and in close consultation with the Special Administrator, the State Department issued instructions to the Embassy to send another diplomatic note to the Ministry of Foreign Affairs responding to specific points and again requesting a review of the case. This diplomatic note was sent to the Ministry of Foreign Affairs in November 2004, and the Ministry of Foreign Affairs provided a brief response dated March 15, 2005, reiterating the Government of Italy's position that the case was closed.

On March 17, 2005, the Special Administrator visited Embassy Rome. Embassy officers had previously secured appointments for the Special

ROME 00000827 002.2 OF 003

Administrator with officials in the Office of the Prime Minister and the Foreign Ministry, but the Special Administrator subsequently asked that the meetings be canceled because of the March 4 Calipari (Iraq hostage) incident.

On September 12, 2006, the United States sent another Diplomatic Note urging a satisfactory resolution of the dispute. The Ministry of Foreign Affairs responded via Diplomatic Note dated December 27, 2006, reaffirming its earlier positions. The Note stated, in particular, that it had not been proven that the American citizenship of Claimant A was "predominant" over his Italian citizenship, therefore, the claim was an Italian claim. The Note contended that that the Protocol to the 1948 FCN did not define who is entitled to benefit from diplomatic protection, therefore, a U.S. ownership of an interest in an Italian entity would not be entitled to protection under the FCN or its Protocol.

In April 2007, the Embassy received a letter from Senate Majority Leader Harry Reid notifying the Embassy that the Special Administrator planned to come to Rome and requesting that Embassy officials assist the estate representatives in obtaining an appointment at the MFA to discuss the estate's claims. Despite a letter from the Ambassador requesting that they meet with estate's Special Administrator representatives, MFA officials declined to do so.

The Office of the Legal Advisor has requested the Special Administrator to provide it with a number of documents, as well as more information, in order to assess the feasibility of espousing the claim against the Italian Government.

In May 2009 the Special Administrator advised the Embassy it was seeking a meeting with the Italian MFA. The Embassy requested the MFA to meet with the Special Administrator, but the MFA declined to do so.

13. (SBU)

a. Claimants B

b. 1960-1972

c. Claimants B claim the City of Bari expropriated 22,000 square meters of land from them and paid for only 10,000 square meters. The City states that the Claimants must get additional payment from the party that built on the land, the Istituto Autonomo Case Popolari (IACP). The IACP apparently wants to pay a much lower price than the Claimants' lawyer is seeking. Claimants' attorney brought suit. In July 1998, the Bari court requested a new survey to determine the exact size of the area expropriated and a new estimate of the value of the property. A court decision was rendered in September 2002, in which the U.S. Claimants were awarded 1.89 million euros, and an additional 18,000 euros for legal expenses. According to Italian law, the affected party, IACP, may appeal the decision.

Consulate Naples was contacted in November 2002 by the attorney representing the American Claimants. The attorney asked for Consulate Naples' intercession with IACP. Consulate Naples advised the attorney that the Consulate could not interfere in the legal process. Records do not indicate why the attorney sought Consulate Naples assistance, since the Claimants had received a favorable ruling in September 2002. Consulate Naples has not had any contact with the Claimants since 2002.

14. (SBU)

a. Claimant C

b. 1998

c. Claimant C claims the city of Bari expropriated property owned by her in 1998. In 2006, the Claimant advised the Department of State that she was in the process of appealing an administrative tribunal's valuation of the property seized. In May, 2006, the Consul General Naples offered diplomatic assistance in determining the status of her case and provided a list of English-speaking attorneys as additional resources. The last contact with Claimant C was in 2007.

15. (SBU)

a. Claimant D

b. unknown at this time

c. Claimant D bought a car factory in Arese, Northern Italy, a few years ago. Soon after acquisition of this property, Claimant D was told that along with the property it had also acquired the obligation to rehire a number of the auto workers who had been laid off by Italian company Fiat/Alfa when these companies closed the car factory. Claimant D resisted such obligations, but under pressure from local politicians and unions, Claimant D hired some of the workers and compensated or settled claims with others. As of

ROME 00000827 003.2 OF 003

December 2008, there were only a few remaining workers from the car plant who refused to settle. The Italian courts involved supported Claimant D's position. It appears that the case may be moving towards a settlement favorable to Claimant D.

IDENTITIES OF CLAIMANTS

16. (SBU) Identities of claimants are protected under the Privacy Act of 1973 and cannot be released without permission of the claimant.

Claimant A

Name: Pier Talenti

Citizenship: Naturalized American citizen (May 15, 1961)

Privacy Act Waiver: unknown

Claimant B

Names: Francesco Scavelli, Antonio Scavelli, Germano Scavelli, and
Bernardo Scavelli
Citizenship: American
Privacy Act Waiver: None

Claimant C

Name: Maria La Cedra
Citizenship: American
Privacy Act Waiver: unknown

Claimant D

Name: AIG Lincoln
Citizenship: U.S.-based company
Privacy Act Waiver: unknown

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